

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

TOWHAUL CORPORATION,)	Case No. CV-06-35-BU-RFC-CSO
)	
Plaintiff,)	
)	
vs.)	
)	ORDER ADOPTING FINDINGS AND
BIRRANA ENGINEERING PTY LTD,)	RECOMMENDATION OF UNITED
MINE RANGER PTY. LTD f/k/a)	STATES MAGISTRATE JUDGE
TOWHAUL AUSTRALASIA PTY LTD,)	
)	
Defendants.)	
_____)	

On March 15, 2007, United States Magistrate Judge Carolyn S. Ostby entered her Findings and Recommendation. Magistrate Judge Ostby recommends this Court deny Defendants' motion to dismiss on the grounds that Plaintiff has been allowed to file an amended complaint and there is little merit in hearing a motion to dismiss a complaint that will soon be superseded. Magistrate Judge Ostby further recommends Defendants be allowed to renew their motion after Plaintiff's Amended Complaint is filed. These recommendations are apparently not disputed because no party filed objections within the 10-day period authorized by 28 U.S.C. § 636(b)(1). For the record, this Court approves of the procedure recommended by Magistrate Judge Ostby. Accordingly,

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss (*Doc. 6*) is **DENIED**.

Defendants may renew their motion after reviewing the Amended Complaint and may rely on prior briefing if further argument is unnecessary.

The Clerk of Court shall notify the parties of the making of this Order.

DATED the 5th day of April, 2007.

/s/ Richard F. Cebull
RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE